
**LABOR
COMMISSION
STATE OF UTAH**

**QUARTERLY
NEWSLETTER
3rd Quarter 2006**

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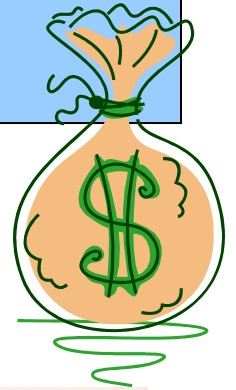
R. LEE ELLERTSON, Editor-in-Chief

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Clayton Middle School bags top honors in 2006 Workplace Safety Poster Contest



When Patti Owen, Clayton Middle School's ambitious art teacher reviewed her entries for this year's Labor Commission Annual Workplace Safety Poster Contest, she knew she had some strong contenders. She's entered the contest many times, but with only eight entries from Clayton this year, she was shocked when she found out

Clayton cashes in with \$1,300 in award money for the school's art program.



Megan Gessel of Clayton Middle School holds this year's Grand Prize winning poster with Commissioner Lee Ellertson.



Megan's poster featured tiny squares, each depicting a safety design and combining to make a large mosaic construction worker.

just how well Clayton did. They walked away with the Grand Prize, 2nd Runner-up, and one of eight Honorable Mention winners. Best of all,

Megan Gessel won \$500 for having this year's grand prize winner. Ben Anderson pocketed \$300 for his 2nd Runner-up poster and Jessie Anderson got \$200 for Honorable Mention. They were chosen from almost 1,000 entries this year submitted by 25 different middle and junior high schools.

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The poster contest, in its ninth year, is part of the Labor Commission's ongoing outreach campaign to "Take Safety Seriously". It is open to all middle and junior high schools across Utah, both private and public.

Because the workplace impacts all people and families in Utah, the Utah State Legislature appropriated funds generated from a percentage of the workers' compensation premium to the Labor Commission to be used in informing citizens of the need for workplace safety. As students in the junior high and middle schools participate in the technology/life/careers "TLC" project, it is important to incorporate workplace safety into this training by teaching and stressing safety.



Laura Dawn Leavitt, Timberline Middle
1st Runner-up

The 1st Runner-up check for \$300 was awarded to Laura Dawn Leavitt of Timberline Middle School in Alpine and Jessica Frazier, also from Timberline, took the 3rd Runner-up award of \$300. The Labor Commission matches any money won by students with an equal award to the school as well, so Timberline was

awarded \$900 in prize money. This includes a \$300 participation award

which is given to every school that enters.

The other Honorable Mention award winners each received \$200 for them and their schools. They included: Hyrum Wendel and Carson Coleman of Central Davis Jr. High; Dakota Miller and Nicole

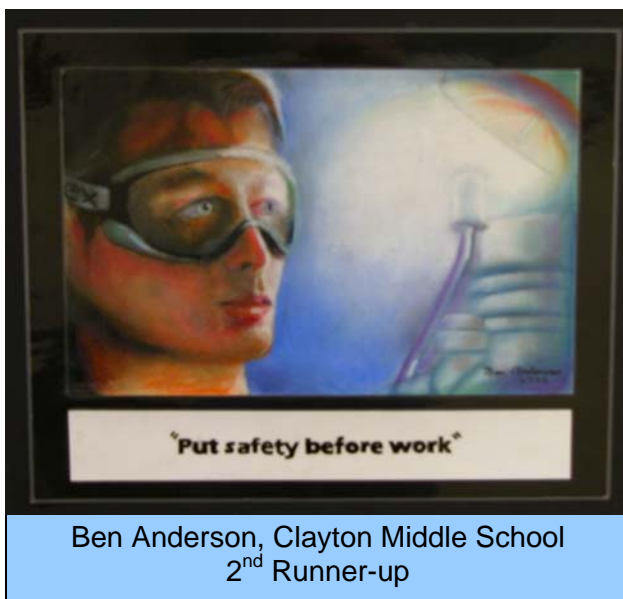


Jessica Frazier, Timberline Middle School
3rd Runner-up

Barton of Ephraim Middle School; Rikie Gregg and Priscilla Faasoutauloa of Northwest Middle School; and Mykel Brinkerhoff of Syracuse Jr. High.

These top 12 winners of the contest will have their entries featured in the Labor Commission's Workplace Safety calendar for 2007. The Commission distributes over 35,000 of the safety calendars throughout the state and we consider it a very effective tool for generating awareness to the public of the need for safety in the workplace.

Anyone interested in details of the contest for next year should contact Robyn Barkdull at the Labor Commission at (801) 530-6815 or by email at rbarkdull@utah.gov.

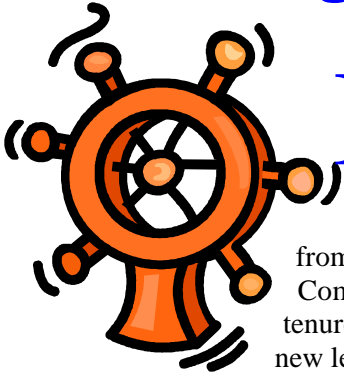


Ben Anderson, Clayton Middle School
2nd Runner-up

This contest has generated great interest in workplace safety and those schools who have participated in the past have found it both rewarding and educational. The workplace safety posters can either be done through the art department, or integrated into the TLC curriculum serving as a motivational learning tool.

Changes at the Helm

By Robyn B. Barkdull, Public Information Officer



It's hard to believe that after ten years, Commissioner R. Lee Ellertson will no longer be found making the rounds here, sharing his upbeat personality and taking the time to greet staff members each day. We have all benefited from his leadership and his innovative ideas. The Commission has made great strides during Ellertson's tenure in meeting the governor's challenge to achieve a new level of performance, a fact that the Commissioner modestly attributes to those he's directed. "I've had the privilege of working with the greatest staff in the world", stated Ellertson. "The credit for the success we have experienced over the past ten years goes to them. They are all dedicated professionals in their respective fields."

The Commissioner also had praise for other associations he has formed while holding his position. "We have experienced a great relationship with the Legislature over the years. Almost every bill we have requested has sailed through the process without a dissenting vote. And I can't speak highly enough of the outstanding support I've received from our two advisory councils. The Workers' Compensation Advisory Council and the Antidiscrimination and Labor Council have been valuable tools for us to accomplish our goals and I have enjoyed my association with those individuals."



His successor will be Sherrie Hayashi who has been employed at the Commission for 15 years in various positions, most recently as Director of the Antidiscrimination and Labor Division (UALD). Ms. Hayashi received both her undergraduate and juris doctorate degrees from the University of Utah and is licensed by the Utah State Bar. Additionally, she is highly recognized for her accomplishments within the legal community, receiving many honors and awards. Ms. Hayashi anticipates her new assignment with enthusiasm. "I am looking forward to this new and challenging opportunity in working with all of the wonderful people at the Labor Commission, many of whom I have had the pleasure of working with before in the many different hats I've worn here over the years", she commented. "Filling Commissioner Ellertson's shoes will be a difficult task, and I personally will miss his leadership, guidance and support, and hope to continue to expand upon his vision of the Utah Labor Commission leading the way in achieving safety and fairness in Utah's workplaces."

Commissioner Ellertson had great praise for Ms. Hayashi upon her appointment as Commissioner. "The Labor Commission is fortunate to have someone of Sherrie's capabilities accept this demanding position", stated Ellertson. "She brings to the table a great deal of diverse experience, as well as tremendous talent and dedication. I am leaving the Commission in very capable hands."

All of us join in wishing Commissioner Ellertson and his wife, Dana, the very best upon his retirement. I'm sure they are excited to embark upon new adventures, but the staff will miss him – both professionally, and as a great friend.

We've Come a Long Way

**By Ami Johnston, Information Analyst
Division of Boiler and Elevator Safety**

Since the beginning of the computer age, people have predicted the arrival of a “paperless office.” In the office of the future, they said, paper would be obsolete: documents would be stored in electronic file cabinets and sent electronically from computer to computer. There would be no need for steel file cabinets, reference books, or stamps on outgoing mail. There would be little or no paper. Even though this vision of a paperless office has been difficult to realize, The Utah Labor Commission Division of Boiler and Elevator Safety is headed in that direction.

It is a far cry from where the Division was 15 years ago when the first of our current inspectors started here. Back then each inspector carried a pager and a pocket full of his own pay phone quarters to keep in touch with the office, and they had to come into the office weekly to get a list of inspections that needed to be done. And the paper, oh the paper!! Filing cabinets lined the hallway, filled with stacks of inspection forms and invoices dating back to the early years of the Division. During this time the percentage of overdue units was

“...we began working in conjunction with the Labor Commission’s computer programmers on the concept of an interactive internet based program that would allow us to do more work with less office staff.”

nearly 100%. Approximately 15% of all accounts that received an invoice were sent to collection. The amount of time elapsed from inspection to the owner receiving a permit was more than 30 days.

In September 2005, it was decided that a retiring office employee would not be replaced and the money saved would be spent on the creation of a new computer program. At that time, we began working in conjunction with the Labor Commission’s computer programmers on the concept of an interactive internet based program that would allow us to do more work with less staff. The idea was to develop a program that would allow our inspectors to be not only paperless, but also wireless, allowing them to be self-sufficient and far more productive, eliminating the time necessary for trips back and forth

to the office for an inspector to hand write permits. In addition, office efficiency would greatly improve because the number of phone calls would be reduced. All of these changes would result in a savings for the Labor Commission, the State of Utah, and the customers we serve.

Each of the inspectors’ vehicles has now become a mobile office. The inspectors each have a cellular phone and a laptop computer fitted with a wireless “air card” which allows them to connect to the internet, and therefore our office program, from anywhere they can receive a cell phone signal. The inspectors communicate with the office each morning via email reporting where they will be working that day. We have installed power inverters in each vehicle allowing the inspectors to plug in a printer in addition to their laptops which are now mounted in their cars; similarly to the method used by Utah Highway Patrol officers, thus completing the inspector’s disconnection from the office.

In the interim, the development of the program has moved along smoothly. It began with a read only, fully functional, search grid that allowed the inspectors to view what needed to be inspected in their area at any given time. Shortly thereafter a print function was added which allowed the inspector to print a list of the items needing inspection and also a worksheet to be taken on the inspection. This worksheet holds all of the pertinent information currently on file for the unit. Currently, we have reached a point



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Reducing Workplace Fatalities

By Larry A. Patrick, UOSH Administrator

When I was a young boy, a girl in my elementary school class lost her father to a workplace accident. He was a lineman for an electrical power company and was electrocuted while trying to restore electrical power during a thunderstorm. Although I didn't know him personally, his death affected me. My friend lost her father and there was always a void for her at activities which



involved parents. I wondered what it would be like to grow up without a father.

Workplace fatalities still cause me to ponder some of those same questions. I think about those who have lost a spouse. I think about children who have lost a parent. I think about parents who successfully raised a child only to have to watch him or her be buried at too young an age. I think about lives tragically cut short, memories not made, dreams not fulfilled and many other things.

I still recall the notification report for the first workplace fatality that occurred after I became the Administrator of the Utah Occupational Safety and Health Division. As I read the report, I remember thinking that I hoped every fatality report I ever read would bother me as much as the first one. I hoped that I would never look at a fatality as just another statistic. In the four plus years I have been in this position, I can honestly tell you that each fatality report is like a

punch in the stomach. As much as these fatalities affect me, I can only imagine how they affect those much closer to the victims

- family, friends, co-workers, and employers.



Some people will say "death is a part of life" and while that is true, it overlooks the common characteristic of many workplace fatalities - THEY COULD HAVE BEEN PREVENTED. Nothing is sadder than reading a fatality report involving a fall where the victim is wearing fall protection gear and simply did not connect it.

In this article I am going to briefly touch on what UOSH does to try to minimize the number of workplace fatalities which occur in Utah. Utah Code 34A-6-102 makes it very clear when it says the intent of the Utah Occupational Safety and Health Act is to preserve human resources by providing for the safety and health of workers that the reduction of workplace fatalities is a priority for UOSH.

Goals

Fatality reduction in Utah is planned. As a state plan state (state, rather than federal, enforcement) Utah is required to have a long term fatality reduction goal similar to federal OSHA's. Utah has chosen to adopt the following federal goal:

By 2008, reduce the rate of workplace fatalities by 15%

Each year we (UOSH) develop an annual performance plan designed to incrementally

achieve the longer term goal. These annual goals include reducing the rate of fatalities overall by 2% , with a construction reduction of 3% , and general industry reduction of 1%.

Achieving the Goals

Goals are fine, but only if there is significant effort made to accomplish them. To attempt to reduce fatalities, we look at the past and the present. In looking at the past, we review the recent workplace fatality history.

This includes looking at the leading causes of fatal accidents and the employers that

conduct frequent activities which expose workers to these causes. Since 2000, there have been 84 workplace fatalities in Utah. Thirty-two (38.1%) were caused by crushing accidents, 13 (15.5%) were caused by falls, 13 (15.5%) were “struck by” accidents and 7 (8.3%) were caused by electrocution. We then focus our inspection and outreach activities in workplaces where these types of accidents are more likely to occur.

In the present we investigate each workplace fatality to determine if a violation of a safety and health law contributed to or caused the fatality. We then look at each fatality to determine if there are steps that we need to take to prevent similar fatalities. We look at our laws to see if they need to be amended. We look at our inspection plan to see if it should be revised. We look at how we can communicate the cause of the fatality to Utah employers so they take steps to prevent a similar occurrence in their workplaces.

Cooperative Effort

Even with all of our safety and health expertise, logistically, we simply cannot be present at a given workplace in Utah very often. However, employers and employees are present in their workplaces all the time and know their operations far better than we

ever will. Therefore, the most effective way of reducing fatalities in Utah is a cooperative effort with involvement by employers and employees. Through our Consultation and Compliance Assistance programs we can conduct hazard surveys of Utah's workplaces. We can train you to assess and eliminate hazards.

The combined staff of UOSH (Compliance and Consultation) has approximately 30 sets of eyes. However, the latest employment figures from the Department of Workforce

Services say there are approximately 1.2 million people employed in

Utah. Imagine the impact that many sets of eyes could have on Utah workplace fatality statistics if they were identifying and correcting hazards.

UOSH is more than a regulatory agency. Enforcement is, and will continue to be, a major component of Utah's occupational safety and health program. Assistance and consultation are also available AT NO COST to Utah's employers. For private sector consultation, please call (801) 530-6855. For compliance assistance or public sector consultation, please call (801) 530-6860. Our website at www.uosh.utah.gov also has a wealth of information on how to improve workplace safety and health.

“In the four plus years I have been in this position, I can honestly tell you that each fatality report is like a punch in the stomach”.

From the OSHA website

Each day more than 15 American workers fail to return home to their loved ones. That is totally unacceptable. OSHA, along with safety and health professionals round the Nation, is working with employers and employees to move toward zero deaths on the job. And the agency will not be satisfied until every worker in America goes home safe and sound each day.

The “Rules” Corner

The Utah Labor Commission has adopted the following administrative rules. If you have questions or concerns about any of these rules, please call the Labor Commission at 801-530-6953.



R612-2-2 Industrial Accidents	Medical records. This rule clarifies the authority of an administrative law judges to act on requests for medical records in cases pending before the ALJ.	Discussed at public meeting & published June 1. Effective July 11.
R 612-2-5 Industrial Accidents	Medical fees. This rule updates standards for fees that may be charged for medical treatment of workplace injuries. Specifically, the rule incorporates ‘06 editions of RBRVS and CPT4.	Discussed at public meeting & published June 1. Effective July 11.
R 612-7-3 Industrial Accidents	Rating impairments. This rule incorporates the 2006 Utah Impairment Guides, which provide guidance in assessing permanent impairments resulting from workplace injuries and diseases.	Discussed at public meeting & published June 1. Effective July 11.

Utah Court of Appeals Decisions

In Estate of Walther Strate v. Labor Commission, et al., Utah 2006 UT App 179, May 4, 2006, the Utah Court of Appeals rejected assertions that the Labor Commission had improperly denied Mr. Strate’s permanent total disability claim.

Walther Strate owned his own concrete company. In 1978, the boom of a concrete truck hit him in the head. His workers’ compensation insurance company paid for his medical care, as well as disability compensation. After the 1978 accident, Mr. Strate lost his concrete company to his ex-wife. He found other employment, but in 1985 his ex-wife’s boyfriend attacked him at his new place of employment. Mr. Strate filed a claim for additional benefits for these new injuries. In subsequent proceedings before the Commission, the insurance company agreed to pay the additional benefits. In 1997 Mr. Strate filed a new claim—this time for permanent total disability compensation—against the Employers’ Reinsurance Fund (“ERF”). The ERF had not been included as a party defendant to Mr. Strate’s earlier claims in 1978 or 1985.

Mr. Strate died before his claim was decided, and his estate pursued the claim with respect to benefits for the period prior to Mr. Strate’s death. Ultimately, the Commission denied Mr. Strate’s claim because his injuries in 1985, at the hands of his ex-wife’s boyfriend, were the result of a personal dispute that was not work-related.

The Strate estate appealed the Commission’s decision to the Utah Court of Appeals, arguing that the Commission’s factual determinations were inadequate. The Court of Appeals rejected this argument, observing that the Commission’s findings were complete, accurate and internally consistent. The Strate estate also argued that Mr. Strate’s right to benefits had been conclusively established in the proceedings that had taken place immediately after the 1985 injury. The Court of Appeals rejected this argument as well, since the ERF had not been a party to those earlier proceedings.



We've Come a Long Way

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where the inspectors can perform a few crucial updates. The time and paper savings are really starting to show. The percentage of overdue units is currently 2% - 5% for boilers and pressure vessels, and 14% for elevators. We send only 2% of all accounts to collection and owners receive their permit at the time an inspection is completed. We have also redesigned our website to be more user-friendly and have made our Compliance Manuals available online to download, reducing our monthly paper order by 50%. In the future we will be able to perform the entire inspection process including the payment of an invoice online.

We look forward to more successes and we are proud of the ways in which we've overcome some typical problems, such as the length of time needed to implement the changes and costs of purchasing equipment and training employees to use the technology.

*Authors Note: I have worked for the State of Utah now for nearly 10 years, the last five with this division. Being part of the development of this program is the most difficult, challenging, and rewarding thing I have done thus far in my career.